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June 26, 2015

Federal Election Commission
Office of Complaints Examination
& Legal Administration
Attn: Mary Beth deBeau, Paralegal Specialist
999 E Street, NW
Washington, DC 20463

Re: Response of McConnell Senate Committee '14 in "RR 15L-03"

Dear Office of General Counsel:

This response is submitted on behalf of McConnell Senate Committee '14, and its Treasurer Larry J. Steinberg, (the "Committee") (C00193342) regarding your May 1, 2015 letter. The Reports Analysis Division's ("RAD's") Referral regarding an outside vendor's theft of contributions was generated by the Committee's self-disclosure to RAD Assistant Staff Director Deborah Chacona. Thus, the Committee's self-disclosure constitutes a *sua sponte* submission pursuant to the Commission's Policy Regarding Self-Reporting of Campaign Finance Violations (Sua Sponte Submissions), 72 Fed. Reg. 16,695 (April 5, 2007).

The Committee's Internal Controls and Best Practices

The Committee at all times relevant to this response maintained appropriate internal controls and safeguards ensuring its full compliance with Federal Election Commission reporting and record-keeping obligations. Despite these safeguards, however, an outside vendor of the Committee diverted direct mail contributions directly from the mail into a "ghost account" which the vendor was neither authorized to open nor to operate. No money whatever was embezzled from campaign accounts; rather, the vendor was literally stealing the Committee's mail. **In fact, it was because of the Committee's internal controls** that the outside vendor had to open a separate unauthorized "ghost account" in order to engage in fraudulent activity outside the view

of the Committee and in circumvention of its internal controls and safeguards. Further, it was because of the Committee staff's diligence that the vendor's theft was discovered in the first place. Immediately upon learning of the vendor's "ghost account," the Committee contacted the Federal Bureau of Investigation, and subsequently contacted RAD Management to ensure the Committee appropriately handled its ongoing reporting and record-keeping obligations.

At the time when the embezzling outside vendor was diverting funds to the "ghost account," the Committee maintained internal controls and best practices to ensure compliance with its record-keeping and reporting obligations under federal law. The Committee continues to maintain those internal controls and best practices, and indeed, has endeavored to maintain an even higher level of scrutiny in light of these events. The Committee has at all relevant times ensured that:

- All authorized¹ bank accounts are opened in the Committee's name using the Committees Federal Employer Identification Number.;
- Each month, bank statements are reviewed for unauthorized transactions and reconciled to the accounting records. Bank records are also reconciled to disclosure reports prior to filing. These reconciliations are initially completed by Lisa Lisker, Assistant Treasurer, who then provides the Committee and Committee Treasurer with financial reports and bank deposit information for further review.;
- Checks in excess of \$1,000 are authorized in writing. All wire transfers are authorized in writing. The individuals authorized to sign checks or authorize disbursements are identified in the Committee's internal policies.;
- Incoming checks of a high dollar amount are received by the Committee and then forwarded to the Assistant Treasurer's office for deposit.² The Assistant Treasurer reviews deposits and provides the Committee with deposit detail for their comparison. The deposit detail highlights any checks that have been forwarded to the Assistant but that have been held or not deposited for any reason; any such instances are addressed by the Committee and the Assistant Treasurer.

See Statement of Policy; Safe Harbor for Misreporting Due to Embezzlement, 11 C.F.R. Part 104 (Notice 2007-9).

The Committee takes further measures to protect its assets and ensure compliance with its reporting and record-keeping obligations. The Committee regularly reviews financial reports and bank deposit information. Additionally, the Treasurer has online access to all authorized

¹ The "ghost account" was not an authorized Committee account as it was opened by the outside vendor without the Committee's knowledge, consent, or grant of authority to do so.

² Checks received by the outside vendor via direct mail were diverted by the outside vendor before the Committee ever became aware of their existence, and were therefore, not received by the Committee nor subject to the Committee's internal controls and safeguards.

bank accounts to monitor transactions at all times. In no instance is a disbursement issued without written request by authorized Committee staff.

As a result of these internal controls, the outside vendor was forced to take the affirmative steps of opening and maintaining a "ghost account" to conduct his fraudulent activity. Had the outside vendor attempted to steal funds from the authorized account, the Committee's internal controls would have immediately uncovered the fraudulent activity.

Embezzled Committee Funds

Despite the Committee's internal controls and the treasurer's best efforts, however, it is the Committee's understanding that the outside vendor was able to maintain two accounts at a depository. The outside vendor was only authorized to operate a single account under the Committee's authority. Without the Committee's knowledge, the outside vendor circumvented the Committee's internal controls to open an entirely separate account from the authorized account and to deposit contributions intended for the Committee into the unauthorized, or "ghost account."

The outside vendor diverted contribution checks intended for the Committee that were received by the outside vendor at a P.O. Box. It is the Committee's understanding that the outside vendor was depositing some of the checks received at the P.O. Box into the Committee's authorized account while selecting certain checks and depositing those checks into the "ghost account." As a result, the Committee had no way of knowing of the existence of the diverted contribution checks, which were received by the outside vendor without the Committee's knowledge and deposited into an unauthorized "ghost account" of which the Committee was completely unaware.

In fact, the Committee was not aware of the existence of the "ghost account" until the Committee's assistant treasurer contacted the bank where the Committee's authorized account is maintained. The assistant treasurer contacted the bank seeking to resolve the issue of a single contribution check that was apparently mailed to the Committee for deposit into the authorized account, but that was not deposited into the authorized account. At that time, the bank informed the assistant treasurer that the outside vendor maintained two (2) accounts under the name of the Committee. Immediately upon learning of the second account, the Committee contacted counsel and informed the FBI.

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The FBI investigated the matter and, in cooperation with the Department of Justice, arrested and seized the assets of the outside vendor. During the course of that investigation, the Committee undertook an internal audit of the outside vendor's activities and accounts to the extent that it was permitted access to those accounts during the ongoing investigation. It is the Committee's understanding that the outside vendor stole a total of \$100,634 by diverting contribution checks received by the outside vendor by mail from the Committee's authorized account to the outside vendor's "ghost account." Put differently, the vendor was stealing the mail.

To date, the Committee has received and reported to the FEC restitution payments totaling \$32,960 – these payments were recovered due to the diligence of the U.S. Attorney's office, which moved the court to authorize release of such funds during the pre-charging phase of the criminal proceeding. The Committee, through its counsel and assistant treasurer, on two occasions pro-actively contacted RAD Management to inform the Commission of the matter and ensure full and accurate reporting and record-keeping compliance.

The Committee's Reporting Pursuant to Commission Guidance

In accordance with the Commission's "Statement of Policy; Safe Harbor for Misreporting Due to Embezzlement," 11 C.F.R. Part 104 (Notice 2007-9), as soon as the misappropriation was discovered, the Committee notified relevant law enforcement (the FBI) of the misappropriation and subsequently notified the FEC of the misappropriation. The Committee then filed its 2014 30 Day Post-General Report, including a spreadsheet of contributor information in lieu of amending previous reports as instructed by RAD Management.

As a result of law enforcement's investigation and action, the Committee has recovered \$32,960 in restitution payments to date. Committee counsel contacted RAD Management informing the Commission of the misappropriated funds and seeking guidance on how to properly disclose the restitution payments received on the Committee's upcoming 2014 30 Day Post-General Report. Counsel informed RAD Management that an outside vendor misappropriated approximately \$100,000 in contributions made by mail and deposited those funds into a "ghost account." Counsel further stated that the FBI and DOJ arrested the outside vendor, seized his assets, and recouped approximately \$30,000 in restitution payments made to the Committee. Finally, counsel informed RAD management that the Committee was able to

generate a spreadsheet containing the information of contributors whose contributions were stolen by the outside vendor.

Upon receiving a restitution check from the U.S. Treasury, the Committee's assistant treasurer contacted RAD Management seeking guidance for reporting this amount on the 2014 30 Day Post-General Report. The assistant treasurer provided further details of the embezzlement, including the fact that the Committee never saw the contribution checks embezzled by the outside vendor because the outside vendor regularly processed checks for the Committee that were received in a P.O. Box.

RAD Management advised counsel that the Committee to provide a cover letter accompanying its 2014 30 Day Post-General Report explaining the details of the theft; to disclose the restitution amount on Schedule A supporting Line 15 of the Detailed Summary Page, and to attach a spreadsheet containing the contributor information. RAD Management advised the assistant treasurer to disclose the amount received from the U.S. Treasury and to include memo text identifying the outside vendor and explain the situation. RAD Management further advised the assistant treasurer that, in lieu of amending previous reports, the Committee may file its spreadsheet containing contributor information.

The Committee's 30 Day Post-General Report was compiled and completed pursuant to the comprehensive guidance provided by RAD Management and Commission's 2011 Embezzlement Guidance. The Committee's 2014 30 Day Post-General Report included memo text, in lieu of a cover letter, stating:

The receipt disclosed on line 15 from the US Treasury is a partial payment of funds diverted from the Committee by an outside vendor. Please see the attached list of contributors whose contributions were reported to the Committee as having been diverted. (Image 14021370368).

The Report also included a spreadsheet, in lieu of amending previous reports, listing contributions totaling \$100,634 that were misappropriated by the outside vendor (Images 14021370373-84). The Report further disclosed partial restitution of embezzled funds on Schedule A supporting Line 15 of the Detailed Summary Page totaling \$32,960 from U.S. Treasury for "Repayment of diverted funds-see memo" (Image 14021370797).

The Committee is not aware of any additional funds stolen in excess of the \$100,634 of which it is now aware, and the Committee remains in contact with law enforcement on the matter. Further, the Committee has not been able to recoup any additional restitution payments

for the stolen funds in excess of the \$32,960 received to date, as any such recovery necessarily involves further court proceedings and asset seizure related to the vendor.

Conclusion

The Committee intends to cooperate fully with the Commission in resolving this matter. We respectfully request that the Commission's consideration of this referral take into account the Committee's continuously maintained internal controls and best practices, its pro-active efforts to bring this incident to the Commission's attention by *sua sponte* submission, and the urgency and diligence with which the Committee undertook action to fully comply with its reporting obligations.